

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
BAIS YAAKOV OF SPRING VALLEY, on :
behalf of itself and all others similarly situated, :
:

Plaintiff, :

-against- :

GRADUATION SOURCE, LLC, GRADUATION :
SOLUTIONS, LP and JESSE ALEXANDER, :

Defendants. :
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14-cv-3232 (NSR)
ORDER

NELSON S. ROMÁN, United States District Judge

Plaintiff brings this putative class action against the Graduation Source, LLC, Graduation Solutions, LP, and Jesse Alexander ("Defendants") alleging violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, and New York General Business Law § 396-aa. Before the Court is Plaintiff's motion for class certification and for a temporary stay of the class certification motion until after the discovery cutoff date which the Court will set in a discovery scheduling order. Plaintiff filed its motion one day after filing the Complaint to avoid having the class claims mooted by a Rule 68 Offer of Judgment or other tender, fearing that the Court would follow the Seventh Circuit decision in *Damasco v. Clearwire Corp.*, 662 F.3d 891, 893, 896 (7th Cir. 2011) (finding moot a putative class action, filed in Illinois state court, where defendant made a pre-answer offer of judgment within 30 days of commencement of suit, defendant removed the action to federal court four days later, and plaintiff moved for class certification within hours of removal). For the reasons set out in *Curtin v. Mitnick Law Office, LLC*, No. 13-cv-3142 (NSR), 2013 U.S. Dist. LEXIS 129138 (S.D.N.Y. Sept. 10, 2013), Plaintiff's motion is denied without prejudice to renewal after sufficient discovery has occurred to allow for a

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“rigorous analysis” of the requirements for class certification. *See Wal-Mart Stores, Inc. v. Dukes*, 131 S. Ct. 2541, 2551 (2011). The Clerk of Court is respectfully directed to terminate the motion (Doc. 4).

Dated: May 7, 2014
White Plains, New York

SO ORDERED:

 5/7/14

NELSON S. ROMÁN
United States District Judge